HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A No.4810 of 2003

Date of decision : 13.3.2007

Ram Singh and others **.....Appellants**

versus

State of Haryana and another **.....Respondents**

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.Arvind Singh, Advocate for the appellants.
Mr.Madan Gupta, Sr.DAG, Haryana for the respondents.

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ORDER

HEMANT GUPTA, J.

The challenge in the present second appeal is to the judgment and decree passed by the learned First Appellate Court dated 4.6.2003, whereby suit for permanent injunction restraining the defendants to remove the trees and of mandatory injunction for getting the land demarcated, was dismissed in appeal.

It was found by the learned First Appellate Court that the demarcation report relied upon by the plaintiff-appellant, prepared by Om Parkash, Kanungo, is not reliable as the said demarcation was carried out by affixing one pacca point only and 3 pacca points, in terms of the instruction of the Financial Commissioner, were not affixed. The learned First Appellate Court further found that the trees are standing on the Government land. The Court concluded that though the plaintiffs are

owner in possession of the suit land, but the disputed trees are not standing in the suit land and the plaintiffs are not owners of the said trees and they are not entitled to the injunction prayed for.

This Court on 20.11.2006, appointed Naib Tehsildar, Thanesar as Local Commissioner for demarcating the land in the presence of the parties. In terms of the said order, demarcation has been carried out by the Naib Tehsildar, Thanesar. As per the said report, 17 trees planted by the respondents, stand on the land of the plaintiff. In view of the demarcation report carried out in pursuance of the order passed by this Court, the present appeal merits acceptance to the extent of 17 trees found standing on the land which has been found to be that of the plaintiffs. In respect of the remaining land and the trees, the suit is dismissed.

Parties shall remain bound by the report of the Tehsildar dated 15.1.2007.

(HEMANT GUPTA)
JUDGE

March 13, 2007
**mohinder*